SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1934.

No. 142

NOAH STEWART, APPELLANT,

vs.

ROBERT KEYES, T. B. SLICK, D. REPLOGLE, ET AL.

APPEAL FROM THE SUPREME COURT OF THE STATE OF OKLAHOMA.

INDEX.

	Original	Print
Proceedings in Supreme Court of Oklahoma	1	1
Opinion, Andrews, J.	2	2
Petition for rehearing (omitted in printing)	7	
Order denying rehearing	10	5
Record from District Court of Seminole County	11	5
Caption (omitted in printing)	11	
Petition (" " ")	12	
Amended petition (" " ")	28	
Second amended petition (" " ")	44	
Separate answer of Robert Keyes to second amended petition (omitted in printing)	131	
Reply to answer of Robert Keyes (omitted in printing)	134	
Separate answer of T. B. Slick to second amended petition (omitted in printing)	137	
Answer of D. Replogle et al. (omitted in printing)	141	
Separate answer and cross petition of defendants, Mid-Continent Petroleum Corp. and Conden Oil & Gas Co.	144	6
Exhibit 1—Oil and gas lease (omitted in printing)	162	
Exhibit 2—Judgment, Cause No. 7237 (omitted in printing)	168	
Separate answer of Leslie Rogers to second amended petition (omitted in printing)	181	

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., OCTOBER 23, 1934.

—5560-C.

	Original	Print
Amended reply to separate answer of Robert Keyes (omitted in printing)	186	
Reply to separate answer of T. B. Slick (omitted in printing)	192	
Reply to separate answer of D. Replogle et al. (omitted in printing)	197	
Reply to separate answer of Leslie Rogers (omitted in printing)	202	
Reply to separate answer of defendants, Mid-Continent Petroleum Corp. and Cosden Oil and Gas Co. (omitted in printing)	207	
Statement of evidence	212	17
Appearances (omitted in printing)	212	
Caption (" " ")	214	
Testimony of Albert Stewart (" " ")	215	
Stipulation as to certain facts	216	17
Testimony of Fred Davidson (omitted in printing)	218	
Exhibits 1 to 26 inclusive—Petition for appointment of guardian and probate proceedings (omitted in printing)	221	
Exhibit 27—Enrollment record of Noah Stewart	321	18A
Exhibits 28 to 34 inclusive—Letters of guardianship, deeds, etc. (omitted in printing)	328	
Testimony of Fred Davidson (recalled) (omitted in printing)	358	
Noah Stewart (omitted in printing)	360	
John W. Sargent (omitted in printing)	390	
Owen H. Rives (omitted in printing)	395	
Effie Smith (omitted in printing)	399	
Exhibit 35—Testimony of Noah Stuart (omitted in printing)	402	
Testimony of Owen H. Rives (recalled) (omitted in printing)	407	
Exhibit 36—Testimony in matter of approval of deed, No. 1993 (omitted in printing)	414	
Testimony of Albert Stewart (omitted in printing)	425	
Offer in evidence—Rule 5 of rules of Supreme Court of Oklahoma (omitted in printing)	443	
Testimony of Frank Shepard (omitted in printing)	444	
V. L. Kiker (" " ")	451	
Dr. Robert Keyes (omitted in printing)	457	
Exhibits 37 and 38—Oil and gas grant and escrow agreement (omitted in printing)	466	
Testimony of George Hargrave (omitted in printing)	477	
Exhibit 41—Petition, Cause No. 3256 (omitted in printing)	480	

	Original	Print
Exhibit 40—Answer, Cause No. 3256 (omitted in printing)	484	
Exhibit 39—Judgment, Cause No. 3256 (omitted in printing)	487	
Colloquy (omitted in printing)	489	
Stipulation as to restrictions on allotments	499	19
Defendants' demurrer to evidence (omitted in printing)	500	
Judgment	502	19
Order overruling motion for new trial (omitted in printing)	504	
Petition in error (omitted in printing)	506	
Præcipe for transcript of record (" " ")	508	
ounter præcipe for record (" " ")	510	
Bond on appeal (" " ")	512	
Assignments of error	514	21
Petition for appeal (omitted in printing)	515	
Order allowing appeal	519	21
Citation and service (omitted in printing)	521	
C[illegible] certificate (" " ")	523	
Statement of points to be relied upon and stipulation as to printing record	524	22

[fols. a & 1] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

No. 21,718

NOAH STEWART, Plaintiff in Error,

vs.

ROBERT KEYES et al., Defendants in Error,

Syllabus

1. The statutes of limitations provided in Sections 100 and 1444, O. S. 1931, and the second subdivision of Section 99, O. S. 1931, apply regardless of whether the guardian's deed was valid, void, or voidable.

2. The recording of a deed to real property made by a guardian in pursuance of a sale upon an order of a court directing such sale, is sufficient to set the statute of limitations in operation against the ward.

3. An action for the recovery of real property sold by a guardian upon an order of court directing such sale, brought by the ward, can only be commenced within five years after the date of the recording of the deed made in pursuance of the sale, within three years after the disability of the ward is removed, and within three years after the termination of the guardianship.

Error from the District Court of Seminole County, Oklahoma

Hon. Lucius Babcock, Judge

Affirmed.

W. H. Ballard, Lester & Briggs, for Plaintiff in error.

T. H. Wren, Grant & Grant, W. W. Stokes, A. M. Beets, O. K. Wetzel, John Rogers, J. C. Denton, R. H. Wills, J. H. Crocker, I. L. Lockewitz, J. P. Greve, R. J. Roberts, for Defendants in error.

[fol. 2] OPINION—Filed Feb. 20, 1934

ANDREWS, J:

This is an appeal from a judgment rendered by the district court of Seminole County in favor of the defendants in error, who were the defendants in the trial court, against the plaintiff in error, who was the plaintiff therein. Hereinafter the parties will be referred to as they appeared in the trial court.

The plaintiff's original petition was filed on April 11, 1928. The cause of action attempted to be stated therein was based on the allegations that the appointment of John A. Jacobs as guardian for him was invalid; that the continuation of such guardianship after the plaintiff had reached the age of majority was invalid, and that the sale of the land in question by the guardian was invalid. Thereafter various amendments were filed.

Since the controlling issue is whether or not that guardian's deed can be attacked herein, the details of the allegations of the petition and amendments are not stated.

The record shows that on July 20, 1909, John A. Jacobs was regularly appointed guardian of the property of the plaintiff who, at the time of the appointment, was a minor. It shows that on the 5th day of January, 1914, after the plaintiff had arrived at the age of majority, said John A. Jacobs presented to the county court a resignation as guardian; that the county court found that the plaintiff, a full-blood Indian and of a weak and inferior mind, was unable to properly transact his own business and incompetent to manage his own affairs; that the said John A. Jacobs was a capable person to be continued as guardian of the plaintiff; that after an examination of the plaintiff and after a hearing in the presence of the plaintiff, the resignation of the guardian was not accepted and it was ordered that the guardianship continue with John A. Jacobs as guardian until the further order of the court. The record does not [fol. 3] show the character of notice of that hearing, if any; and it might be presumed that the necessary notice was given before the order was made. However, we are not determining that question herein. The record shows that thereafter the land in question was sold at a guardian's sale and purchased by the defendant, Robert Keyes, who entered into possession thereof and who remained in posses-

sion thereof at all times thereafter, and under whom the other defendants in this action claimed title to their respective interests in the property in question. That guardian's deed was filed for record on the 12th day of July, 1916. On August 4, 1917, the county court made an order adjudging the plaintiff to be competent and discharging the guardian. There was other evidence pertaining to other issues not controlling herein.

At the conclusion of the evidence on behalf of the plaintiff, the defendants, jointly and severally, demurred thereto on the ground, among others, that each and every cause of action asserted by the plaintiff in the case, as shown by the evidence, was barred by the statutes of limitation of the state of Oklahoma and the United States of America. That demurrer was sustained by the trial court and judgment was rendered dismissing the action with prejudice. From that judgment the plaintiff appealed to this court.

Under the provisions of Section 1444, O. S. 1931, no action for the recovery of any estate, sold by a guardian, can be maintained by the ward, unless it is commenced within three years next after the termination of the guardianship, or when a legal disability to sue exists by reason of minority or otherwise, at the time when the cause of action accrues, within three years next after the removal thereof. The plaintiff could have commenced his action at any time within three years after August 4, 1917. Under the provisions of Section 100, O. S. 1931, any person entitled to bring an action for the recovery of real property, who may [fol. 4] be under any legal disability when the cause of action accrues, may bring his action within two years after the disability is removed. Under that statute the plaintiff could have brought his action within two years after August 4, 1917. Under the provisions of the second subdivision of Section 99, O. S. 1931, an action for the recovery of real property sold by a guardian, upon an order or judgment of a court directing such sale, brought by the ward or his guardian, must be brought within five years after the date of the recording of the deed made in pursuance of the sale. Under that statute the plaintiff could have brought his action within five years after the 12th day of July, 1916. The action was not commenced until the 11th day of April, 1928.

The plaintiff contends that this action was brought under the provisions of Section 2, Chapter 115 of the Act of Congress of April 12, 1926 (44 Stat. 239), generally known as the Hastings-Harreld Act; that it was brought within the two-year period provided by that act, and that the restrictions provided in Section 1444, O. S. 1931, as to attacks on guardians' sales do not apply. With that contention we cannot agree.

In Campbell v. Holt, 115 U. S. 620, 29 L. Ed. 483, 6 Sup. Ct. 209, the Supreme Court of the United States said:

"It may, therefore, very well be held that, in an action to recover real or personal property, where the question is as to the removal of the bar of the statute of limitations by a legislative act passed after the bar has become perfect, such act deprives the party of his property without due process of law. The reason is, that, by the law in existence before the repealing act, the property had become the defendant's. Both the legal title and the real ownership had become vested in him, and to give the act the effect of transferring this title to plaintiff, would be to deprive him of his property without due process of law."

[fol. 5] The Hastings-Harreld Act, supra, did not and could not affect causes of action that had been barred by the statutes of limitation prior to the enactment thereof. See 17 R. C. L., section 16, page 674; 34 Corpus Juris, section 14, page 697.

The right of the plaintiff to have the guardian's deed in question canceled was barred by the applicable statutes of limitation prior to the commencement of this action, even though, as contended by the plaintiff, that deed was void. See Dodson v. Middleton, et al, 38 Okla. 763; Group v. Jones, 44 Okla. 344, 144 Pac. 377; King v. Mitchell, 69 Okla. 207, 171 Pac. 725; Chupco, et al, v. Chapman, et al, 76 Okla. 201, 170 Pac. 259; Glory v. Bagby, et al, 79 Okla. 155, 188 Pac. 881; Wray v. Howard, 79 Okla. 223, 192 Pac. 584; Mehard v. Little, 81 Okla. 1, 196 Pac. 536; Minnehart v. Littlefield, 94 Okla. 249, 222 Pac. 253; Sandlin v. Barker, 95 Okla. 113, 219 Pac. 519; Walker v. Hatcher, et al, 109 Okla. 283, 231 Pac. 88; Dierks, et al, v. Isaac, et al, 114 Okla. 158, 244 Pac. 750; Anicker, et al, v. Harrison, et al, 125 Okla. 21, 256 Pac. 39; Tiger v. Brown, 130 Okla. 83, Pac. 124; Stolfa v. Gaines, et al, 140 Okla. 292, 283 Pac.

563; Bearhead v. American Inv. Co., 157 Okla. 84, 10 Pac. (2d) 1086; Washington v. Bartlett, 158 Okla. 218, 13 Pac. (2d) 132; Givens v. Jones, et al, 158 Okla. 124, 12 Pac. (2d) 892; Deere v. Gypsy Oil Co., 160 Okla. 237, 15 Pac. (2d) 1086; Harris, et al, v. Bell, et al, 254 U. S. 103, 65 L. Ed. 159, 41 Sup. Ct. 49.

In Wood v. Carpenter, 101 U. S. 135, 25 L. Ed. 807, the Supreme Court of the United States said:

"Statutes of limitation are vital to the welfare of society and are favored in the law. They are found and approved in all systems of enlightened jurisprudence. They promote repose by giving security and stability to human affairs. An important public policy lies at their foundation. They stimulate to activity and punish negligence. While time is constantly destroying the evidence of rights, they supply its place by a presumption which renders proof unnecessary. Mere delay, extending to the limit prescribed, is itself a conclusive bar. The bane and antidote go together."

[fol. 6-9] There are many other issues presented, none of which are necessary to be determined.

The judgment of the trial court is affirmed.

Cullison, V. C. J., and Swindall, Osborn and Busby, JJ., concur.

[fols. 10-143] In Supreme Court of Oklahoma

* * * * * * *

21718

Noah Stewart

v.

Robert Keyes, et al.

Order Denying Rehearing—March 27, 1934

And now on this day it is ordered by the court that the petition for rehearing filed in the above entitled cause be, and the same is hereby denied.

* * * * * * *

[fol. 144] IN DISTRICT COURT OF SEMINOLE COUNTY

No. 11,559

NOAH STEWART, an Incompetent, by His Legal Guardian, R. L. Ream, Plaintiff,

vs.

ROBERT KEYES et al., Defendants

SEPARATE ANSWER AND CROSS-PETITION OF DEFENDANTS, MID-CONTINENT PETROLEUM CORPORATION AND COSDEN OIL & GAS COMPANY—Filed June 8, 1929

Come now the above named defendants, Mid-Continent Petroleum Corporation and Cosden Oil & Gas Company, and each for its separate answer to the second amended petition of the above named plaintiff and each of the causes of action attempted to be set up and stated therein, and each for its cross petition, alleges, states and denies:

That said defendants expressly and specifically deny each and every allegation set out, stated and contained in the [fol. 145] aforesaid second amended petition of the above named plaintiff and in each of the several causes of action attempted to be set up and stated therein, save and except as is hereinafter expressly and specifically admitted or qualified.

That said defendant, Mid-Continent Petroleum Corporation, is the absolute owner and holder of a good, valid and subsisting oil and gas mining lease covering the following described real estate and premises, to wit:

The Southwest Quarter (SW/4 of Section Four (4), Township ten (10) North, Range Eight (8) East, containing 160 acres, more or less, situated in Seminole County, Oklahoma,

and is in the quiet and peaceable possession of said real estate and premises under said oil and gas mining lease and is entitled to such possession, and that said defendant's title to the aforesaid lease, and its possession and right to the possession of the aforesaid real estate and premises under the aforesaid lease are predicated upon the following matters and things, to wit:

(a) That one Lizzie Toney was a Creek Indian Citizen and was living on the 1st day of April, 1899, and as such she was enttiled to be enrolled on the final rolls of the Creek Tribe of Indians, and that she died some time during the month of October 1899, in the town of Wewoka, Indian Territory, and that she was at the time of her death a resident of and domiciled in the territory now embraced [fol. 146] in Seminole County, Oklahoma, and that she died prior to having been either enrolled or allotted her distributive share of the lands of the Creek Nation.

(b) That thereafter application was made for the enrollment of the said Lizzie Toney, deceased, as a citizen by blood of the Creek Nation, and on the 24th day of May, 1901, she was duly enrolled as such on Creek Census Card No. 2987 opposite Roll No. 8540 as a full blood Creek Indian; and thereafter on the 13th day of January, 1902, a certificate of allotment was duly issued to the heirs of the said Lizzie Toney, deceased, covering the above described real estate and premises as and for the distributive share of the lands of the Creek Nation to which she was entitled to be allotted; and that thereafter a patent or patents were issued to the heirs of the said Lizzie Toney, deceased, leaving at large the names and individuals identity of such heirs.

(c) That the said Lizzie Toney died intestate, unmarried and without children her surviving, but left surviving her as her sole and only heirs at law three (3) grandchildren, to wit: Ida Kernell, now Bruner, Selina Davis and Noah Stewart; and that upon the issuance of the aforesaid allotment certificate to the heirs of the said Lizzie Toney, the said Ida Kernell, now Bruner, Selina Davis and Noah Stewart became seized of an undivided one-third (⅓) interest each in and to the above described real estate and premises.

(d) That the said Selina Davis was a citizen of the Creek Nation duly enrolled as such opposite Roll No. 5997 [fol. 147] as a full blood Creek Indian, and that on the 15th day of November, 1899, she died in infancy, intestate, unmarried and without issue surviving her, leaving as her sole and only heir at law her father, Sam B. Davis, a full blood Creek Indian citizen duly enrolled as such opposite Roll No. 7855, and who upon the death of the said Selina

Davis became seized of all her right, title, interest, equity and estate in and to the above described real estate and premises.

(e) That the aforesaid Ida Bruner, nee Kernell, is a three-fourths (¾) blood Creek Indian citizen, enrolled as such opposite Roll No. 5996, and that on the 3rd day of February, 1911, the said Ida Bruner, nee Kernell, joined by her husband, Dave Bruner, sold and conveyed by warranty deed to Robert Keyes all her right, title, interest, equity and estate in and to the above described real estate and premises, which said deed is of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 15 of Deeds at page 536, which record is hereby referred to for identification and made a part hereof.

(f) That on the 6th day of February, 1911, the said Robert Keyes, joined by his wife, sold and conveyed to M. O. Brice all of his right, title, interest, equity and estate in and to the above described real estate and premises, and the deed by and under which said conveyance was made is of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 19 of Deeds at page 35, which [fol. 148] record is hereby referred to for identification and made a part hereof.

(g) That on the 3rd day of December, 1913, the aforesaid Sam B. Davis, father of the aforesaid Selina Davis, deceased, sold and conveyed by quit claim deed to M. O. Brice all of his right, title, interest, equity and estate in and to the above described real estate and premises; that the aforesaid deed was duly and regularly approved on the 3rd day of December, 1913, by the Judge of the County Court of Seminole County, Oklahoma, and thereafter, on the 6th day of August, 1924, said deed was duly and regularly approved by the County Judge of Hughes County, Oklahoma; that the aforesaid deed is of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 26 of Deeds at page 596, which record is hereby referred to for identification and made a part hereof; that the order of the County Court of Seminole County, Oklahoma, approving the aforesaid deed is of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 37 at page 204, which record is hereby referred to for identification and made a part hereof; and that the

order of the County Court of Hughes County, Oklahoma, approving the aforesaid quit claim deed is of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 170 at page 585, which record is hereby referred to for identification and made a part hereof.

(h) That on the 8th day of January, 1914, M. O. Brice sold and conveyed by general warranty deed to Robert Keyes all of his right, title, interest, equity and estate in and [fol. 149] to the above described real estate and premises, which said deed is of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 19 of Deeds at page 257, which record is hereby referred to for identification and made a part hereof.

(i) That on the 11th day of July, 1916, John A. Jacobs, as the guardian of the estate of Noah Stewart, an incompetent, by guardian's deed conveyed to the said Robert Keyes all of the right, title, interest, equity and estate of the said Noah Stewart in and to the above described real estate and premises, which said guardian's deed is of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 7 at page 407, which said record is hereby referred to for identification and made a part hereof; that said guardian's deed was made pursuant to an order confirming the sale of the real estate and premises mentioned and described therein, which was made and entered in the County Court of Hughes County, Oklahoma, on the 11th day of July, 1916, a certified copy of which said order is of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 58 at page 492, which said record is hereby referred to for identification and made a part hereof; that the aforesaid sale of the said real estate and premises was made upon a verified petition of the said guardian filed in the probate matter of the said Noah Stewart, an incompetent, same being probate case No. 524 in the County Court of Hughes County, [fol. 150] Oklahoma, and pursuant to the decree of sale made and entered by said Court in said case on the 9th day of June, 1916; that the aforesaid sale was made by said guardian under the aforesaid decree of sale after proper and legal notice, giving the time and place of said sale; and that the aforesaid Robert Keyes became the purchaser of the interest of the aforesaid ward in and to the above mentioned and described real estate and premises and as

hereinbefore set forth in the aforesaid order of confirmation and the aforesaid guardian's deed.

(j) That on the 4th day of August, 1917, the aforesaid Noah Stewart was duly and legally restored to competency by a proper order and decree of the County Court of Hughes County, Oklahoma, the same being the Court having jurisdiction of his person and estate, in the aforesaid probate case No. 524.

(k) That on the 26th day of August, 1924, the aforesaid Noah Stewart, for a good and valuable consideration, sold and conveyed by warranty deed to the aforesaid Robert Keyes all of his right, title, interest, equity and estate in and to the above described real estate and premises; that said deed was duly approved by the Judge of the County Court of Seminole County, Oklahoma, on the 27th day of August, 1924, and was also duly approved by the Judge of the County Court of Hughes County, Oklahoma, on the 27th day of August, 1924, and that the aforesaid deed and the aforesaid orders are of record in the office of the County Clerk of Seminole County, Oklahoma, in Book 166, at page 487, Book 171 at page 409 and Book 171 at [fol. 151] page 425, respectively, and said records are hereby referred to and made a part hereof.

(l) That on the 7th day of July, 1920, the aforesaid Robert Keyes and Lola Keyes, his wife, for a good and valuable consideration, made, executed, acknowledged and delivered to said defendant, Cosden Oil & Gas Company, their certain oil & gas mining lease covering the above described real estate and premises; that on the 28th day of July, 1920, said lease was filed for record and recorded in Book 101 at page 193 of the records of the County Clerk of Seminole County, Oklahoma, a copy of which lease is hereto attached, marked "Exhibit 1" and made a part hereof; that the aforesaid lease is and has been at all times subsequent to the 7th day of July, 1920, in full force and effect and is a good, valid and subsisting oil and gas mining lease upon the real estate and premises mentioned and described therein; and that thereafter said oil and gas lease passed from the defendant, Cosden Oil & Gas Company, by duly made, executed and delivered assignments to the defendant, Mid-Continent Petroleum Corporation, and that by virtue of said assignments the Mid-Continent Petroleum

Corporation is the absolute owner and holder of said lease, and is in the quiet and peaceable possession of the real estate and premises mentioned and described therein, and is entitled to such possession.

That said defendants expressly and specifically deny that said plaintiff, Noah Stewart, is an incompetent person, and state and allege that the said Noah Stewart is and has [fol. 152] been at all times since the 4th day of August, 1917, of sound mind and thoroughly competent to transact any and all business; and said defendants further expressly and specifically deny that R. L. Ream is now and ever was the duly appointed, qualified and acting guardian of the person and estate of the said plaintiff, Noah Stewart, and state and allege that the order of the County Court of Seminole County, Oklahoma, purporting to appoint the said R. L. Ream as guardian of the person and estate of the said Noah Stewart, and the proceedings had in connection therewith, disclose that said County Court of Seminole County, Oklahoma, never at any time acquired jurisdiction, authority or power to make said order, and that said attempted and purported appointment was and is absolutely null and void.

That said defendants further state and allege that the plaintiff, Noah Stewart, is not now and never was a resident of Seminole County, Oklahoma.

That said defendants further state and allege that the above mentioned and described attempted appointment of R. L. Ream as guardian of the person and estate of the plaintiff, Noah Stewart, is and was the result of a conspiracy on the part of said R. L. Ream, W. H. Ballard and Tom Huser, his attorneys in this action, and divers other persons whose names are unknown to said defendants, for the sole and only purpose of making it appear to this court that the said Noah Stewart was an incompetent person, [fol. 153] when in truth and in fact the said Noah Stewart is and has been at all times since the 4th day of August, 1917, of sound mind and thoroughly competent to transact any and all business and to manage and conduct his affairs, all of which is and was at the time of said attempted appointment of guardian well and thoroughly known to the said R. L. Ream, W. H. Ballard and Tom Huser, and the aforesaid divers and sundry persons.

That said defendants admit that John A. Jacobs was duly and legally appointed guardian of the person and es-

tate of Noah Stewart by the County Court of Hughes County, Oklahoma, in Probate Case No. 524 in said court.

That said defendants further state and allege that on the 11th day of July, 1916, when John A. Jacobs, as guardian of the estate of Noah Stewart, an incompetent, made, executed, acknowledged and delivered his guardian's deed to the defendant, Robert Keyes, covering all of the right, title, interest, equity and estate of the said Noah Stewart in and to the real estate and premises involved herein, as has heretofore been mentioned and described, and at the time of all of the proceedings which were had in connection with said guardian's deed, the said John A. Jacobs was the duly appointed, qualified and acting guardian of the estate of the said Noah Stewart, and that said guardian's deed, and all of the proceedings had in connection therewith, and each and every part thereof, were in accordance with the laws of the State of Oklahoma, in such cases made and provided.

[fol. 154] That said defendants expressly and specifically deny that there was any fraud, either actual or constructive, in connection with the warranty deed covering the real estate and premises involved herein, which was made, executed, acknowledged and delivered by Noah Stewart to Robert Keyes on the 26th day of August, 1924, and which is recorded in Book 166 at page 487 of the records of the County Clerk of Seminole County, Oklahoma, and state and allege that said deed was made, executed, acknowledged and delivered by the said Noah Stewart of his own free will and accord and for a good and valuable consideration, and that at said time the said Noah Stewart fully and completely understood, realized and comprehended the nature, force and effect of said deed.

That said defendant, Mid-Continent Petroleum Corporation, and those through whom it claims, have been in the actual, open, notorious, hostile and adverse possession of the real estate and premises involved herein continuously from on or about the 13th day of January, 1902, down to the present time, and that during all of said times said defendant, and those through whom it claims, have claimed to be the absolute owner and holder of the legal and equitable title in and to said real estate and premises, and that said possession and said claim or claims have at all times been predicated upon color of title, and said defendant,

and those through whom it claims, have during the whole of the aforesaid time collected and used, and are now collecting and using the rents, profits and issues from said [fol. 155] real estate and premises.

That said answering defendants, nor either of them, had any notice prior to the institution of this suit that the above named plaintiff claimed any right, title, interest, equity or estate in and to the real estate and premises involved herein adverse to those by, through and under whom said answering defendants, and each of them, claim, and that said defendant, Cosden Oil & Gas Company, purchased the above mentioned and described oil and gas mining lease for a good and valuable consideration, without any notice of any defects or imperfections therein or in connection therewith, and that it purchased said lease in good faith, and was at all times while holding said lease an innocent purchaser and holder thereof for value, and that the defendant, Mid-Continent Petroleum Corporation, in taking its assignment of said lease, as pleaded above, had no notice that the above named plaintiff claimed any right, title, interest, equity or estate in and to the real estate and premises involved herein, and that said defendant, Mid-Continent Petroleum Corporation, purchased said lease for a good and valuable consideration, without any notice of any defects or imperfections therein or in connection therewith, and that said defendant purchased said lease in good faith, and is now, and has at all times been an innocent purchaser and holder thereof for value.

That a certified copy of the above mentioned and described order of the County Court of Hughes County, [fol. 156] Oklahoma, confirming the sale of the real estate and premises involved herein by John A. Jacobs, as guardian of the above named plaintiff, to Robert Keyes, was filed for record and recorded in Book 58 at page 492 of the records of the County Clerk of Seminole County, Oklahoma, on the 11th day of July, 1916; and that the above mentioned and described guardian's deed from the aforesaid John A. Jacobs, as guardian of the above named plaintiff, to the aforesaid Robert Keyes, which was made, executed, acknowledged and delivered pursuant to the aforesaid order of confirmation, was filed for record and recorded in Book 7 at page 407 of the records of the County Clerk of Seminole County, Oklahoma, on the 12th day of July, 1916.

That said answering defendants further state and allege that the above named plaintiff received from John A. Jacobs, purporting to act as guardian of his estate, the consideration received by the said John A. Jacobs from the above named Robert Keyes for the above mentioned and described guardian's deed, as well as other sums of money which were received by the said John A. Jacobs, as the guardian of said plaintiff, and that in doing so said plaintiff had full, complete and accurate knowledge of the aforesaid guardian's deed and of each and all of the probate proceedings had in the County Court of Hughes County, Oklahoma, in connection therewith, and of the source of said moneys, and that after having received said moneys said plaintiff voluntarily used and expended the same for his own personal needs and purposes, and that [fol. 157] therefore said answering defendants state and allege that said plaintiff, by his aforesaid acts and conduct, as well as other acts and conduct, has ratified, approved and confirmed the aforesaid guardian's sale and the aforesaid guardian's deed, and has adopted said guardian's deed as his own deed, and is and should be equitably estopped from claiming or asserting that said guardian's deed is nor was invalid.

That subsequent to the 26th day of August, 1924, the defendant, Mid-Continent Petroleum Corporation, in reliance upon the public records pertaining to the real estate and premises involved herein, and believing that the above mentioned and described oil and gas mining lease was a good, valid and subsisting lease according to the terms, conditions and provisions thereof and that it was the absolute owner and holder thereof, went upon the said real estate and premises involved and drilled a well thereon for oil and gas purposes, and that since that time said defendant has drilled a large number of oil and gas wells upon said premises, and has been operating said wells and producing and selling oil and gas therefrom, and that in so doing said defendant has in good faith expended many thousands of dollars; that the above named plaintiff at all times had full, complete and accurate knowledge of the acts and conduct of said defendant, Mid-Continent Petroleum Corporation, upon and in connection with the aforesaid real estate and premises, of its use and occupation thereof, and of the expenditure by it of the afore-

[fol. 158] said many thousands of dollars; but that notwithstanding the same, said plaintiff stood idly by and never until the time of the filing of this suit made, asserted or claimed any right, title, interest, equity or estate in and to said real estate and premises; and said answering defendants state and allege that said plaintiff was guilty of laches in instituting this action, and that his acts and conduct in not objecting to the operation and development of the aforesaid real estate and premises by the defendant, Mid-Continent Petroleum Corporation, when he had full, complete and accurate knowledge thereof, and also had knowledge of the fact that said defendant was expending many thousands of dollars in conducting said operations and developments, were and are such that said plaintiff should be and is estopped and barred from maintaining this action, and each and all of the claims and causes of action attempted to be set up and stated in his pleadings herein.

That said defendants further state and allege that heretofore, to wit, on the 8th day of May, 1925, this Court, in Civil Action No. 7237 herein, wherein Daniel Narcomey, Lizzie Sarty, Thomas W. Long, a minor, and Ned Sarty, his guardian, were plaintiffs, and Robert Keyes, J. P. Stewart, D. Replogle, T. B. Slick, Cosden Oil & Gas Company, Ida Bruner, and the unknown heirs, executors, administrators, devisees, trustees, and assigns, immediate and remote, of Lizzie Toney, deceased, and Salina Davis, deceased, were defendants, made, entered and rendered its final order, judgment and decree, a copy of which is hereto [fol. 159] attached, marked "Exhibit 2" and made a part hereof, and that said final order, judgment and decree has never been changed, modified or vacated, and that the same is in full force and effect; and that said defendants further state and allege that the aforesaid final order, judgment and decree was and is binding and conclusive upon the plaintiff, Noah Stewart, and that by virtue thereof the said Noah Stewart is foreclosed, barred, prevented and estopped from maintaining or attempting to assert or maintain any of the matters, things, actions or causes of action set out or attempted to be set out in his second amended petition herein, and that said defendants hereby refer to all of the files, records and proceedings in the aforesaid Civil Action No. 7237, and makes the same a part

hereof, with the same force and effect as if a true, correct and exact copy thereof was hereto attached.

(A full, true, correct and complete copy of said files, records and proceedings in said cause, being in words and figures as follows, to-wit:)

[fol. 160] That said answering defendants further state and allege that each and every cause of action attempted to be set up and stated in the pleadings of the above named plaintiff are and were at the time of the institution of this action barred by the Statutes of Limitation of the United States of America and of the State of Oklahoma.

That each and every claim of right, title, interest, equity and estate made and asserted by the above named plaintiff in and to the real estate and premises involved herein adverse to these answering defendants, and each of them, is absolutely null and void, and that the same constitute clouds upon the title or titles of said defendants, and of [fols. 161-211] each of them, and should be vacated, cancelled, set aside and held for naught, and that said title or titles should be quieted.

Wherefore, these answering defendants pray that it be adjudged and decreed that the above mentioned and described oil and gas mining lease is a good, valid and subsisting oil and gas mining lease and is in full force and effect, and that said defendant, Mid-Continent Petroleum Corporation, is the absolute owner and holder thereof, and that its possession of the real estate and premises covered by said lease and the possession of those under whom it claims has at all times been lawful, and that the said defendant, Mid-Continent Petroleum Corporation, is entitled to the possession of said real estate and premises under and by virtue of said lease and for the purposes thereof, and that it be further adjudged and decreed that every claim of right, title, interest, equity and estate made or asserted by the above named plaintiff adverse to these answering defendants, and each of them, is absolutely null and void, and that the same constitute clouds upon the title or titles of said defendants, and of each of them, and removing the same as such clouds and quieting the said titles of said defendants, and of each of them, and said answering defendants further pray that no judgment whatever be entered herein adverse to them, and that they have

and recover judgment for the costs of this action, and such other and further relief as is just and equitable.

J. C. Denton, J. L. Lockewitz, R. H. Wills, J. H. Crocker, H. N. Gray, P. J. Roberts, Attorneys for Defendants; Mid-Cont. Petroleum Corporation and Cosden Oil & Gas Company.

[fols. 212-215] In District Court of Seminole County, State of Oklahoma

Number 11,559

Noah Stewart, an Incompetent, by His Legal Guardian, R. L. Ream, Plaintiff,

vs.

Robert Keyes, T. B. Slick, D. Replogle, William G. Johnston, Leslie Rogers, Cosden Oil & Gas Company, a Corporation; Mid-Continent Petroleum Corporation, a Corporation; National Bank of Commerce of New York City, a Corporation; Phillips Petroleum Company, a Corporation; Echolustee Oil Corporation, a Corporation; Cosden & Company, a Corporation, Defendants.

Statement of Evidence

Tried in the District Court of Seminole County, State of Oklahoma, on the 5th day of March, 1930, before Honorable Lucius Babcock, duly assigned District Judge.

[fol. 216] Stipulation as to Certain Facts

Mr. Huser: It is hereby stipulated and agreed by and between the parties hereto that the land involved in this suit, described as the Southwest Quarter of Section 4, Township 10 North, Range 8 East, in Seminole County, Oklahoma, was allotted and patented to the heirs of Lizzie Toney, a full blood Creek Indian citizen, roll number 8540, and that the certificate of the selection of the allotment was issued January 13, 1902, vesting title to said land to the heirs of the said Lizzie Toney and that patents thereto

were duly and legally issued to said heirs. It is further stipulated and agreed by and between the parties hereto that the said Lizzie Toney, the allottee of the land above described, departed this life in the month of October, 1899, [fols. 217-320] intestate as to said estate, without children her surviving and unmarried. It is further stipulated and agreed by and between the parties hereto that the said Lizzie Toney in her life-time had born unto her four children, namely: Barney Toney, a son; Jimmie Toney, a son; Lucy Toney, known as and called Lucy Kernell, a daughter; and Canugy Toney. That all of said children named, died before the said Lizzie Toney. That Jimmie and Canugy left no issue. That Barney Toney left a son, a Creek Indian citizen Roll No. 4478 and a full-blood Creek Indian. That Lucy Kernell left two children, Ida Kernell, now Ida Bruner, and Selina Davis. That Selina Davis died and left her father Sam B. Davis, who is her sole heir at law. That the above named persons are the sole and only heirs at law of the said Lizzie Toney, deceased.

Mr. Rogers: It is further stipulated and agreed that the descent of Lizzie Toney, the allottee, was cast under the Creek law, the issuance of the certificate of the selection as the date that cast the descent.

(Here follows Exhibit 27, side folios 321-324)

Family No. 148 Wewoka District. CARD No. 2577

Creek No.	Creek No. 1895 Payroll	Township	Heads of Family	Members of Family	Relationship	Age.	Sex.	Degree of Blood	Post Office.	District.	Remarks.
			Stewart, Robert W			34	M	3/4	Holdenville	Wewoka	Little River Tulsa Roll
	100			Lucy	W	33	F	Full	"	"	Tukabatchee Roll
				Nathaniel W.	S	6	M	7/8	"	"	Little River Tulsa
				Antoinette, C	D	3	F	7/8	Simpson, Fisk	"	
				Noah	S	12	M	Full	"	"	Transferred to New
Robt W.	Lucy	nee	Noah Stewart	Simpson		19	M	3/8	"	"	Creek Card No 1784

Transferred to New Creek Card No 1408

Noah Stewart (adopted son of Robt W. Stewart) Mechanic & Farmer Coweta, son of Barney Coney and Lizzie Chupko, Full Creeks. Transferred to New Tenderloin Creek Card No 1312

Simpson Fisk, son of Walter Buck (deceased) and Sarah Buck, nee Stewart, now Sarah Panoosky. Card & roll No. 260. Half brother of Daniel Narcomey Card & roll No. 260.

Lucy on 1895 Payroll as Lucy Scott.

Robert W. Stewart, son of Robert W. Stewart (dead) adopted White and of Sophie Stewart, nee McQueen (dead) Full Creek, Little River Tulsa roll.

Lucy Stewart, daughter of Rocus Yahola (or Jones Scott (dead)) Full Creek, Tukabatchee Roll. and of Lilka Hott, full Creek on Tukabatchee roll. See Card No. 260 Wewoka

Nathaniel and Antonette, children of Robt W. Stewart by his first wife, Mary Stewart, nee Allen (dead) full Creek Tukabatchee roll.

RESIDENCE: _____

POST-OFFICE: Goldenrolls, Ind. Ter.

Creek Nation. Indian Roll.

CARD NO. 1404

FIELD NO. 1408

Dawes' Roll No.	Name	Relationship to Person first Named.	Age	Sex	Blood	Tribal Enrollment: Town	Tribal Enrollment: Page	Tribal Enrollment of Parents: Name of Father	Father: Year	Father: Town	Name of Mother	Mother: Year	Mother: Town
HH78	Stewart, Robert H.		22	M.	1/2	Little Tulsa	141	Robert H. Stewart	Dead	Wash. D.C.	Sophia McQueen	Dead	Little Tulsa
HH76	2 " Lucy	Wife	27	F.	Full	Tuckabatchee	228	Jesse Yahola	"	Tuckabatchee	Lotta Scott	1890	Tuckabatchee
HH77	3 Narcomey, Daniel	Nephew	9	M.	"	1898 Little Tulsa		Geo. Narcomey	"	Eufaula	Lizzie Chupco	Dead	Little Tulsa
HH71	4 Stewart, Noah	"	7	"	"	1898 " "		Barney Doney	"	Little Tulsa	" "	"	" "
HH99	5 Brunner, Charley	"	3	"	"	" "		Wm. Brunner	1890	Eufaula	Leah Reed	"	" "
	6												
	7												
	8					No 1 died prior to 12-1901. Name attached per Act of 3-3-1901. Transferred to Dur. Roll							
	9					No 1 on 1890 Roll as a Freedman							
	10					No 2 1890 Doney Dead							
	11					No 2 Little Lucy Doney on Census Roll of June 6th 1895							
	12					No 4					6th 1895	Dead	
	13 Ollie D. [illegible]					No 1					6th 1895		
	14 Entered Fairlee 1, 2, 3, 4th 5					No 2 Tuckabatchee Pay Roll of 1895							
	15 January 28th 1900												
322	16												
	17										Date of Application for Enrollment January 23, 1900		
	18												

ENROLLMENT OF THOSE WHOSE NAMES ARE MARKED ABOVE APPROVED BY THE SECRETARY OF INTERIOR March 13, 1902.

Blank 731.

Creek Roll, Indians By Blood.

No.	Name	Age	Sex	Blood	Card No.
4479	Stewart, Noah	7	M	Full	1404

DEPARTMENT OF THE INTERIOR
United States Indian Service
Five Civilized Tribes
Muskogee, Oklahoma.

This is to certify that I am the officer having the custody of the records pertaining to the enrollment of the members of the Choctaw, Chickasaw, Cherokee, Creek and Seminole tribes of Indians, and the disposition of the land of said tribes, and the following described papers, attached hereto, are true and correct copies of the entire enrollment record on file in this office in connection with the application of

Noah Stewart

Roll No. 4478, for enrollment as Citizen of the Creek Nation:

Census Card #1404, Old Card #2577 and a Copy of Approved Roll No. 4478.

January 26, 1939.

Acting Dist. Supt. in Charge.

324=498

[fols. 499-501] In District Court of Seminole County, State of Oklahoma

No. 11,559

[Title omitted]

Further Proceedings

And now, on this 7th day of March, 1930, the same being a regular judicial day of the regular February Term 1930 of the above entitled court, this cause coming on further to be heard and all parties present as before and the court being in session, thereupon the following proceedings were had, to-wit:

Stipulation as to Restrictions on Allotments

Mr. Huser: It is hereby stipulated and agreed by and between the parties hereto, that the restrictions on the allottment of Lizzie Toney have never been removed by the Secretary of the Interior as provided for by Acts of Congress as relative to said action, and that the restrictions on the allotment of Noah Stewart had never been removed as provided for.

Mr. Wills: I want to add this, too, that the defendant insists that that is wholly immaterial.

[fol. 502] In District Court of Seminole County, State of Oklahoma

No. 11,559

Noah Stewart, an Incompetent, by His Legal Guardian, R. L. Ream, Plaintiff

vs.

Robert Keyes et al., Defendants

Journal Entry of Judgment—Filed March 13, 1930

Heretofore, to wit, on the 5th day of March, 1930, same being a regular judicial day of the February, 1930, term of this court, the above entitled and numbered cause came

regularly on for trial; plaintiff appeared in person and by his attorney of record, and the defendants, and each of them, appeared by their respective attorneys of record; said plaintiff and said defendants announced ready for trial and waived a trial by jury and agreed to a trial to the Court; thereupon said cause proceeded, regularly to trial; and the trial of said cause having proceeded regularly from day to day, and now on this the 7th day of March, 1930, same being a regular judicial day of the February, 1930, term of this court, plaintiff concluded the introduction of his evidence and rested; whereupon the defendants, and each of them, demurred to the evidence of said plaintiff; and the Court having heard and considered said demurrer, and the argu- [fols. 503-513] ments of counsel thereupon, and being well and fully advised in the premises, is of the opinion that said demurrer should be sustained.

It is therefore, by the court ordered, adjudged and decreed that the aforesaid demurrer of the defendants, and each of them, to the evidence of the plaintiff be, and the same is hereby sustained; and

It is further ordered, adjudged and decreed that the petition, amended petition and supplement of said amended petition, and the second amended petition, all filed by plaintiff herein be, and the same are hereby dismissed with prejudice; and that the plaintiff take nothing herein, and that the defendants, Robert Keyes, T. B. D. Replogle, William G. Johnston, Leslie Rogers, Cosden Oil & Gas Company, a corporation, Mid-Continent Petroleum Corporation, a corporation, Cosden & Company, a corporation, National Bank of Commerce of New York City, a corporation, Phillips Petroleum Company, a corporation and Echolustee Oil Corporation, a corporation, and each of them be, and they are hereby permitted to go hence without day, and that said defendants do have and recover of and from the plaintiff their costs herein expended.

To each and all the above and foregoing order, judgment and decree the plaintiff objected and excepted, and his exceptions are allowed.

Lucius Babcock, Judge.

OK. Tom Huser, Atty. for Plaintiff.

[File endorsement omitted.]

[fols. 514-518] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

[Title omitted]

ASSIGNMENT OF ERRORS—Filed June 11, 1934

The said Noah Stewart, plaintiff in error, assigns the following errors in the proceedings of the Supreme Court of the State of Oklahoma:

1. The Supreme Court of the State of Oklahoma erred in that it held that plaintiff's action, which was brought on April 11th, 1928 was barred by the statute of limitations and in so holding it erroneously held against the validity of the provision of section two, chapter 115 of the Act of Congress approved April 12th, 1926 (44 Stat. 239) which gave Noah Stewart, the plaintiff in error, the right as a restricted Indian to have until April 12th, 1928 in which to bring his action free from any bar of the statute of limitations.

2. The Supreme Court of the State of Oklahoma erred in not rendering judgment for the plaintiff in error as prayed for by him.

Wherefore plaintiff in error prays that the judgment of the Supreme Court of the State of Oklahoma be reversed and for all proper relief.

William Neff, W. H. Ballard, Attorneys for Plaintiff in Error.

[fols. 519-522] [File endorsement omitted]

IN SUPREME COURT OF OKLAHOMA

[Title omitted]

ORDER ALLOWING APPEAL—Filed June 11, 1934

The petition of Noah Stewart for an appeal in the above cause to the Supreme Court of the United States from the Supreme Court of the State of Oklahoma and the assign-

ment of errors filed therewith and the record of said cause having been considered, it is

Ordered that an appeal be and is allowed to the Supreme Court of the United States from the Supreme Court of the State of Oklahoma, as prayed in said petition, and that the clerk of the Supreme Court of the State of Oklahoma shall prepare and certify a transcript of the record and proceedings in the above cause and transmit the same to the Supreme Court of the United States within thirty days from the date hereof.

It is further ordered that said appellant shall give a good and sufficient cost bond in the sum of $500.00 and appellant now presenting a sufficient bond in proper form in the sum of $500.00, it is

Ordered that the same be, and is hereby approved.

Dated June 11th, 1934.

Fletcher Riley, Chief Justice of the Supreme Court of Oklahoma.

[fol. 523] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 524] IN SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY—Filed July 2, 1934

The appellant pursuant to Rule 13, paragraph 9 states that upon the appeal he intends to rely upon the following points to obtain a reversal of the final judgment of the Supreme Court of the State of Oklahoma:

1. Appellant is a restricted Indian and is the heir of a restricted Indian and his action was brought to recover his restricted land.

2. Prior to April 12th, 1928, there was no statute of limitations in force in Oklahoma which applied to appellant's right of action, for the statutes of limitations of the State of Oklahoma did not apply to actions brought by restricted Indians to recover restricted land. Alienation of the title of a restricted Creek Indian to his restricted land can be had only as authorized by some Act of Congress.

3. Appellant was given until April 12th, 1928, in which to bring his action by section 2 of chapter 115 of the Act of Congress of April 12th, 1926, and the said Act was valid.

4. Appellant's action was not barred by the statute of limitations.

William Neff, Counsel for Appellant.

Service of the above is acknowledged this 27th day of June, 1934.

James C. Denton, Richard H. Wills, Counsel for Appellees.

[fol. 525] In Supreme Court of the United States

Stipulation With Reference to the Portions of the Record to be Printed—Filed July 2, 1934

Appellant and appellees, pursuant to Rule 13, paragraph 9 of the Rules of the United States Supreme Court, hereby stipulate that, while there were presented to the Supreme Court of the State of Oklahoma several questions, the final judgment of said Court from which this appeal has been taken disposed of the case upon only one of the questions presented, to-wit: That appellant's attack upon the guardian's deed involved was barred by the Statutes of Limitation of the State of Oklahoma, and therefore, in order to present to the Supreme Court of the United States the sole question which was disposed of by the Supreme Court of the State of Oklahoma, it will only be necessary to print the following portions of the record, to-wit:

1. The opinion of the Supreme Court of the State of Oklahoma (R. 1-6);

2. The date of overruling appellant's petition for a rehearing by the Supreme Court of the State of Oklahoma (R. 10);

3. The date of the allowance of this appeal (R. 519);

4. The stipulation which was entered into between the appellant and the appellees during the trial in the Trial [fol. 526] Court when the first witness, Mr. Albert Stewart, was on the witness stand, which said stipulation commences with these words: "Mr. Huser: It is hereby stipulated and agreed by and between the parties hereto that the land in-

volved in this suit", etc., and ends with the words: "Mr. Rogers: It is further stipulated and agreed that the descent of Lizzie Toney, the allottee, was cast under the Creek law, the issuance of the certificate of selection as the date that cast the descent" (R. 216-217);

5. Appellant's Exhibit No. 27, introduced in evidence upon the trial in the Trial Court, which is a certified copy of the enrollment record in connection with the application of Noah Stewart for enrollment as a citizen of the Creek Nation (R. 321-324);

6. The stipulation which was entered into between the appellant and the appellees during the trial in the Trial Court on the 7th day of March, 1930, and shortly prior to the conclusion of appellant's evidence, which stipulation commences with these words: "Mr. Huser: It is hereby stipulated and agreed", and ends with the words: "Mr. Wills: I want to add this, too, that the defendant insists that that is wholly immaterial" (R. 499);

7. Separate answer and cross petition of the appellees, Mid-Continent Petroleum Corporation and Cosden Oil & Gas Company, to the appellant's second amended petition, omitting the exhibits attached thereto (R. 144-161);

8. Appellant's assignments of error in the United States Supreme Court (R. 514);

9. Appellant's statement as to jurisdiction of the United States Supreme Court (R. 516-518);

10. Appellees' motion to dismiss appeal (R. 523-524);
[fol. 527] 11. Appellees' statement in support of motion to dismiss for lack of jurisdiction (R. 525-529);

12. Appellant's statement of points;

13. This stipulation.

It is further stipulated that only the foregoing parts of the record should be printed.

Dated this 29th day of June, 1934.

William Neff, Attorneys for Appellant. T. H. Wren, Attorney for Appellee, Robert Keyes. W. W. Stokes, Attorneys for Appellee, T. B. Slick. A. M. Beets, Attorneys for Appellees, D. Replogle, William G. Johnston and Echolustee Oil Corporation. John Rogers, Attorney for Appellee, Leslie Rogers. James C. Denton, Richard H. Wills, J. H. [fols. 528 & 529] Crocker, I. L. Lockewitz, J. P.

Greve, Attorneys for Appellees, Mid-Continent Petroleum Corporation, Cosden Oil & Gas Company, Cosden & Company, National Bank of Commerce of New York City, and Phillips Petroleum Company.

[fol. 530] [File endorsement omitted]

Endorsed on cover: File No. 38,770. Oklahoma Supreme Court. Term No. 142. Noah Stewart, appellant, vs. Robert Keyes, T. B. Slick, D. Replogle, et al. Filed July 2, 1934. File No. 142, O. T., 1934.

(5560-C)